

**ASSEMBLY BILL**

**No. 526**

---

**Introduced by Assembly Member Melendez**  
**(Coauthors: Assembly Members Bigelow, Beth Gaines, Grove,**  
**Harkey, Maienschein, Morrell, and Wilk)**  
**(Coauthor: Senator Knight)**

February 20, 2013

---

An act to amend Section 1386 of the Health and Safety Code, and to add Sections 830 and 831 to the Military and Veterans Code, relating to military service.

LEGISLATIVE COUNSEL'S DIGEST

AB 526, as introduced, Melendez. Military service: benefits.

Existing law provides certain protections for members of the National Guard ordered into active state service by the Governor or active federal service by the President of the United States for emergency purposes, and for reservists called to active duty, as specified.

This bill would, in addition, provide protections for these service members in connection with their military service with respect to the deferral of specified obligations or liabilities, including, among others, any payment of property tax or any special assessment, as provided. This bill would require a service member or the service member's designee to deliver to a lender a letter signed under penalty of perjury requesting a deferment of financial obligation. This bill would provide that a deferral of payments shall not be a basis for affecting credit, as specified. This bill would also prohibit penalties from being imposed, interest from being charged and accumulated, and foreclosure or repossession of property on which payment has been deferred, as provided.

This bill would require any entity that was providing any type of health care coverage to a service member, as provided, to reinstate the health care coverage without waiting periods or exclusion of coverage for preexisting conditions and would make a violation of this requirement subject to enforcement under the Knox-Keene Health Care Service Plan Act of 1975, a willful violation of which is a crime. This bill would also make a related, conforming change.

This bill would expand the scope of an existing crime by requiring a service member to provide information under the penalty of perjury, thereby imposing a state-mandated local program. This bill would additionally impose a state-mandated local program by imposing new duties upon local tax officials with respect to the deferral of any payment of property tax or any special assessment.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1386 of the Health and Safety Code is
- 2 amended to read:
- 3 1386. (a) The director may, after appropriate notice and
- 4 opportunity for a hearing, by order suspend or revoke any license
- 5 issued under this chapter to a health care service plan or assess
- 6 administrative penalties if the director determines that the licensee
- 7 has committed any of the acts or omissions constituting grounds
- 8 for disciplinary action.
- 9 (b) The following acts or omissions constitute grounds for
- 10 disciplinary action by the director:
- 11 (1) The plan is operating at variance with the basic
- 12 organizational documents as filed pursuant to Section 1351 or
- 13 1352, or with its published plan, or in any manner contrary to that

1 described in, and reasonably inferred from, the plan as contained  
2 in its application for licensure and annual report, or any  
3 modification thereof, unless amendments allowing the variation  
4 have been submitted to, and approved by, the director.

5 (2) The plan has issued, or permits others to use, evidence of  
6 coverage or uses a schedule of charges for health care services that  
7 do not comply with those published in the latest evidence of  
8 coverage found unobjectionable by the director.

9 (3) The plan does not provide basic health care services to its  
10 enrollees and subscribers as set forth in the evidence of coverage.  
11 This subdivision shall not apply to specialized health care service  
12 plan contracts.

13 (4) The plan is no longer able to meet the standards set forth in  
14 Article 5 (commencing with Section 1367).

15 (5) The continued operation of the plan will constitute a  
16 substantial risk to its subscribers and enrollees.

17 (6) The plan has violated or attempted to violate, or conspired  
18 to violate, directly or indirectly, or assisted in or abetted a violation  
19 or conspiracy to violate any provision of this chapter, any rule or  
20 regulation adopted by the director pursuant to this chapter, or any  
21 order issued by the director pursuant to this chapter.

22 (7) The plan has engaged in any conduct that constitutes fraud  
23 or dishonest dealing or unfair competition, as defined by Section  
24 17200 of the Business and Professions Code.

25 (8) The plan has permitted, or aided or abetted any violation by  
26 an employee or contractor who is a holder of any certificate,  
27 license, permit, registration, or exemption issued pursuant to the  
28 Business and Professions Code or this code that would constitute  
29 grounds for discipline against the certificate, license, permit,  
30 registration, or exemption.

31 (9) The plan has aided or abetted or permitted the commission  
32 of any illegal act.

33 (10) The engagement of a person as an officer, director,  
34 employee, associate, or provider of the plan contrary to the  
35 provisions of an order issued by the director pursuant to subdivision  
36 (c) of this section or subdivision (d) of Section 1388.

37 (11) The engagement of a person as a solicitor or supervisor of  
38 solicitation contrary to the provisions of an order issued by the  
39 director pursuant to Section 1388.

(12) The plan, its management company, or any other affiliate of the plan, or any controlling person, officer, director, or other person occupying a principal management or supervisory position in the plan, management company, or affiliate, has been convicted of or pleaded nolo contendere to a crime, or committed any act involving dishonesty, fraud, or deceit, which crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with this chapter. The director may revoke or deny a license hereunder irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(13) The plan violates Section 510, 2056, or 2056.1 of the Business and Professions Code or Section 1375.7.

(14) The plan has been subject to a final disciplinary action taken by this state, another state, an agency of the federal government, or another country for any act or omission that would constitute a violation of this chapter.

(15) The plan violates the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code).

(16) The plan violates Section 806 *or* 831 of the Military and Veterans Code.

(17) The plan violates Section 1262.8.

(c) (1) The director may prohibit any person from serving as an officer, director, employee, associate, or provider of any plan or solicitor firm, or of any management company of any plan, or as a solicitor, if either of the following applies:

(A) The prohibition is in the public interest and the person has committed, caused, participated in, or had knowledge of a violation of this chapter by a plan, management company, or solicitor firm.

(B) The person was an officer, director, employee, associate, or provider of a plan or of a management company or solicitor firm of any plan whose license has been suspended or revoked pursuant to this section and the person had knowledge of, or participated in, any of the prohibited acts for which the license was suspended or revoked.

(2) A proceeding for the issuance of an order under this subdivision may be included with a proceeding against a plan under this section or may constitute a separate proceeding, subject in either case to subdivision (d).

1 (d) A proceeding under this section shall be subject to  
2 appropriate notice to, and the opportunity for a hearing with regard  
3 to, the person affected in accordance with subdivision (a) of Section  
4 1397.

5 SEC. 2. Section 830 is added to the Military and Veterans  
6 Code, to read:

7 830. (a) Subject to subdivision (b), in addition to any other  
8 benefits provided by law and to the extent permitted by federal  
9 law, any service member who is on military service may defer  
10 payments during the period specified in subdivision (d) on any of  
11 the following obligations:

12 (1) An obligation secured by a mortgage or deed of trust.

13 (2) A credit card as defined in Section 1747.02 of the Civil  
14 Code.

15 (3) A retail installment contract as defined in Section 1802.6 of  
16 the Civil Code.

17 (4) A retail installment account, installment account, or  
18 revolving account as defined in Section 1802.7 of the Civil Code.

19 (5) Up to two vehicle loans.

20 (6) Any payment of property tax or any special assessment of  
21 in-lieu property tax imposed on real property that is assessed on  
22 residential property owned by the service member and used as that  
23 service member's primary place of residence on the date the service  
24 member was ordered to military service.

25 (7) Any obligation owed to a utility company.

26 (b) In order for an obligation or liability of a service member  
27 to be subject to this section, the service member or the service  
28 member's designee shall deliver to the lender:

29 (1) A letter signed by the service member, under penalty of  
30 perjury, requesting a deferment of financial obligations.

31 (2) If required by a financial institution, proof that the service  
32 member's employer does not provide continuing income to the  
33 service member while the service member is on military service,  
34 including the service member's military pay, of more than 90  
35 percent of the service member's monthly salary and wage income  
36 earned before the call to military service.

37 (c) Upon request of the service member or the service members's  
38 dependent or designee and within five working days of that request,  
39 if applicable, the employer of a service member shall furnish the  
40 letter or other comparable evidence showing that the employer's

1 compensation policy does not provide continuing income to the  
2 service member, including the service member's military pay, of  
3 more than 90 percent of the service member's monthly salary and  
4 wage income earned before the call to military service.

5 (d) The deferral period on financial obligations shall be both of  
6 the following:

7 (1) Ninety days prior to the date the service member was ordered  
8 to military service.

9 (2) The lesser of 180 days or the period of military service plus  
10 60 calendar days and shall apply only to those payments due  
11 subsequent to the notice provided to a lender as provided in  
12 subdivision (b).

13 (e) If a lender defers payments on a closed-end credit obligation  
14 or an open-end credit obligation with a maturity date pursuant to  
15 this section, the lender shall extend the term of the obligation by  
16 the number of months the obligation was deferred.

17 (f) If a lender defers payments on an open-end credit obligation  
18 pursuant to this section, the lender may restrict the availability of  
19 additional credit with respect to that obligation during the term of  
20 the deferral.

21 (g) (1) Notwithstanding subdivisions (e) and (f), any mortgage  
22 payments delayed pursuant to this section are due and payable  
23 upon the earlier of the following:

24 (A) The sale of the property or other event specified in the  
25 documents creating the obligation permitting the lender to  
26 accelerate the loan, other than a deferral of payments authorized  
27 by this section.

28 (B) Further encumbrance of the property.

29 (C) The maturity of the obligation as defined under the terms  
30 of the documents creating the obligation or, if applicable, as  
31 extended pursuant to subdivision (e).

32 (2) Nothing in this subdivision relieves a service member with  
33 a mortgage subject to an impound account for the payment of  
34 property taxes, special assessments, mortgage insurance, and hazard  
35 insurance from making monthly payments of an amount that is at  
36 least sufficient to pay these amounts, unless the borrower and  
37 lender agree to a lesser amount.

38 (3) Nothing in this section shall preclude a service member from  
39 making payments toward the mortgage payments deferred prior  
40 to the occurrence of any of the events in subdivision (a).

1 (h) During the period specified in subdivision (d), the service  
2 member may defer the payment of principal and interest on the  
3 specified obligations. No penalties shall be imposed on the  
4 nonpayment of principal or interest during this period. No interest  
5 shall be charged or accumulated on the principal or interest on  
6 which the payment was delayed. No foreclosure or repossession  
7 of property on which payment has been deferred shall take place  
8 during this period.

9 (i) Subject to subdivisions (e) and (f), a stay, postponement, or  
10 suspension under this section of the payment of any tax, fine,  
11 penalty, insurance premium, or other civil obligation or liability  
12 of a service member who is on military service shall not provide  
13 the basis for affecting credit ratings, denial or revocation of credit,  
14 or a change by the lender in the terms of an existing credit  
15 arrangement.

16 (j) (1) The holder of a loan or retail installment sales contract  
17 with respect to which the debtor has purchased prepaid credit  
18 disability insurance shall give notice to the debtor not less than 30  
19 days before the expiration date of the insurance that the debtor  
20 will not be protected during the period between that expiration  
21 date and the deferred maturity date of the loan or contract unless  
22 the insurance is extended. The debtor may, at his or her option,  
23 direct the holder to add the amount of the additional premium to  
24 the unpaid balance of the loan or contract.

25 (2) The holder of an open-ended loan or retail installment  
26 account with respect to which the debtor has purchased credit  
27 disability insurance with premiums payable monthly together with  
28 the installment payments on the loan or the account shall give  
29 notice to the debtor that the debtor will not be protected by the  
30 insurance during the period specified in subdivision (d) unless the  
31 debtor elects to continue payment of premiums during that period.  
32 The debtor may, at his or her option, direct the holder to add the  
33 amount of those premiums to the unpaid balance of the account.

34 (k) During the period specified in subdivision (d), the service  
35 member may defer payments for leased vehicles without breach  
36 of the lease or the foreclosure or repossession of the vehicle. If a  
37 lender defers payments pursuant to this subdivision, the lender  
38 shall extend the term of the lease by the number of months the  
39 lease was deferred.

1 (l) In those instances where a financial obligation covered by  
2 this section is sold, any requirement to defer payments as specified  
3 in this section transfers to the purchaser of the obligation.

4 (m) For purposes of this section, both of the following  
5 definitions shall apply:

6 (1) "Mortgage" means an obligation secured by a mortgage or  
7 deed of trust, and is limited to an obligation secured by a mortgage  
8 or deed of trust for residential property owned by the service  
9 member and used as that service member's primary place of  
10 residence on the date the service member was ordered to military  
11 service.

12 (2) "Vehicle" means a vehicle as defined in Section 670 of the  
13 Vehicle Code.

14 SEC. 3. Section 831 is added to the Military and Veterans  
15 Code, to read:

16 831. (a) Any entity that was providing any type of health care  
17 coverage, including, but not limited to, health care service plans,  
18 specialized health care service plans, and health insurance to a  
19 service member at the time the service member was ordered to  
20 military service, shall reinstate the health care coverage without  
21 waiting periods or exclusion of coverage for preexisting conditions.

22 (b) Pursuant to Section 1386 of the Health and Safety Code, the  
23 Director of the Department of Managed Health Care has the  
24 authority to enforce this section concerning any person or entity  
25 subject to regulation under Chapter 2.2 (commencing with Section  
26 1340) of Division 2 of the Health and Safety Code, and may impose  
27 any applicable penalties provided for under that chapter.

28 (c) Pursuant to subdivision (a) of Section 12921 of the Insurance  
29 Code, the Insurance Commissioner has the authority to enforce  
30 this section concerning any person or entity subject to regulation  
31 under the Insurance Code, and may impose any applicable penalties  
32 provided for under the Insurance Code.

33 (d) The enforcement and penalty provisions of the act that added  
34 this subdivision shall apply only to service members ordered to  
35 military service on or after January 1, 2014.

36 SEC. 4. No reimbursement is required by this act pursuant to  
37 Section 6 of Article XIII B of the California Constitution for certain  
38 costs that may be incurred by a local agency or school district  
39 because, in that regard, this act creates a new crime or infraction,  
40 eliminates a crime or infraction, or changes the penalty for a crime



1 or infraction, within the meaning of Section 17556 of the  
2 Government Code, or changes the definition of a crime within the  
3 meaning of Section 6 of Article XIII B of the California  
4 Constitution.

5 However, if the Commission on State Mandates determines that  
6 this act contains other costs mandated by the state, reimbursement  
7 to local agencies and school districts for those costs shall be made  
8 pursuant to Part 7 (commencing with Section 17500) of Division  
9 4 of Title 2 of the Government Code.

O